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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,863	11/26/2003	Ian Robinson	NG(ST)-6508	8605
26294 7590 06/14/2007 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114			EXAMINER LEE, JOHN J	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 06/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/722,863	ROBINSON, IAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	JOHN J. LEE	2618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 and 34-40 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-27 and 34-40 is/are allowed.
- 6) ☒ Claim(s) 28,29,31 and 32 is/are rejected.
- 7) ☒ Claim(s) 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Response to Arguments/Amendment***

1. Applicant's arguments/amendments received on March 19, 2007 have been carefully considered but they are not persuasive because the teaching of all the cited reference reads on all the rejected claims as set forth in the pervious rejection. Therefore, the finality of this Office Action is deemed proper.

Contrary to the assertions at pages 11 - 15 of the Arguments, claim 28 is not patentable.

During examination, the USPTO must give claims their broadest reasonable interpretation.

Re claim 28: Applicant argues that the teaching of Lundqvist et al. (US 5,640,679) does not teach the claimed invention "for providing a plan to a mobile unit, the plan comprising a contingent carrier for the mobile unit to switch to in the event of carrier loss and for assigning a contingent base transceiver station to the mobile unit for communicating with the mobile unit on the contingent carrier". However, The Examiner respectfully disagrees with Applicant's assertion that the teaching of Lundqvist does not teach the claimed invention. Contrary to Applicant's assertion, the Examiner is of the opinion that Lundqvist teaches the base station controller (MSC) can continuously control the base stations and transmits handoff commands to base stations for one of neighbor base stations to became primary base station for providing a plan to a mobile station, and informs to switch to the new base station (handoff event) to mobile terminal even though the mobile terminal can loss connect with new primary base station, and also

the base station controller (MSC) can continuously control the base stations for controlling the contingent communicating with the mobile station, and as the mobile station can loss connect with primary base station, transmits handoff commands to base stations to control the mobile contingent communication for assigning the mobile terminals (see column 5, lines 42 – column 6, lines 63 and Fig. 3, 5), regarding the claimed limitation.

Applicant's attention is directed to the rejection below for the reasons as to why this limitation is not patentable.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 28, 29, 31, and 32** are rejected under 35 U.S.C. 102(b) as being anticipated by Lundqvist et al. (US 5,640,679).

Regarding **claim 28**, Lundqvist teaches that a controller (MSC as base station controller in Fig. 1). Lundqvist teaches that for providing a plan to a mobile unit, the plan comprising a contingent carrier for the mobile unit to switch to in the event of carrier loss (column 5, lines 42 – column 6, lines 63 and Fig. 3, 5, where teaches the base station controller (MSC) can continuously control the base stations and transmits handoff commands to base stations for one of neighbor base stations to become primary base

station for providing a plan to a mobile station, and informs to switch to the new base station (handoff event) to mobile terminal even though the mobile terminal can loss connect with new primary base station). Lundqvist teaches that for assigning a contingent base transceiver station to the mobile unit for communicating with the mobile unit on the contingent carrier (column 5, lines 42 – column 6, lines 63 and Fig. 3, 5, where teaches the base station controller (MSC) can continuously control the base stations for controlling the contingent communicating with the mobile station, and as the mobile station can loss connect with primary base station, transmits handoff commands to base stations to control the mobile contingent communication for assigning the mobile terminals).

Regarding **claim 29**, Lundqvist teaches that the controller for updating the plan at a predetermined interval (column 5, lines 42 – column 6, lines 63 and Fig. 3, 5, where teaches the base station controller (MSC) can continuously control the base stations (updating the contingent plan at periodically for continuously controlling) and transmits handoff commands to base stations for assigning the mobile terminals).

Regarding **claim 31**, Lundqvist teaches all the limitation, as discussed in claims 28 and 29. Furthermore, Lundqvist teaches that for monitoring a predetermined contingency frequency (the base station controller (MSC) can continuously control the base stations (updating the contingent plan at periodically for continuously controlling) and transmits handoff commands to base stations for assigning the mobile terminals), the predetermined contingency frequency being used by the mobile unit when the mobile unit cannot adequately communicate with a primary BTS associated with the mobile unit

(column 5, lines 42 – column 6, lines 63 and Fig. 3, 5, where teaches the base station controller (MSC) can continuously control the base stations and transmits handoff commands to base stations for one of neighbor base stations to become primary base station, and informs to switch to the new base station to mobile terminal even though the mobile terminal can loss connect with new primary base station).

Regarding **claim 32**, Lundqvist teaches that for removing the contingent carrier after establishing a connection between the contingent BTS and the mobile unit (column 5, lines 42 – column 6, lines 63 and Fig. 3, 5, where teaches removing the continuously controlling the mobile station after performed handoff event).

*Allowable Subject Matter*

4. Claims 1 – 27 and 34 – 40 are allowed.

Claims 1 – 27 and 34 – 40 are allowable over the prior art of record because a search does not detect the combined claimed elements as set forth in the claims 1 – 27 and 34 – 40.

As recited in independent claims 1, 16, 19 and 40, none of the prior art of record teaches or fairly suggests that a first and second for each base transceiver (BTS) unit that receives on a first and second for each primary uplink frequency and is capable of each adding at least one secondary uplink frequency, and the first and second for each BTS transmits on a first and second for each primary downlink frequency and is capable of each adding at least one secondary downlink frequency, and a controller associated with the first and second BTS, the controller controls to which of at least the first and second

Art Unit: 2618

BTS's a mobile unit should be connected based on a signal received by the first and second BTS's from the mobile unit, the controller causes one of the first and second BTS's to add a new carrier to communicate with the mobile unit based on the controller determining that the mobile unit should switch to the one of the first and second BTS's, and together with combination of other element as set forth in the claims 1 – 27 and 34 – 40. Therefore, claims 1 – 27 and 34 – 40 are allowable over the prior art of records.

5. Claim 30 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record fails to disclose “determining that at least one of no signal and an inadequate signal was received from the mobile unit, causing the primary BTS to stop transmitting during a time slot assigned to the mobile unit based on the determination, causing the contingent BTS to add the contingent carrier at a first downlink frequency, and causing the contingent BTS to send a signal on the carrier during the time slot assigned” as specified in the claim.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2618

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Conclusion*

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231  
Or P.O. Box 1450  
Alexandria VA 22313

or faxed (571) 273-8300, (for formal communications intended for entry)

Or: (703) 308-6606 (for informal or draft communications, please label "PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to USPTO Headquarters,  
Alexandria, VA.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is **(571) 272-7880**. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00



Art Unit: 2618

pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Edward Urban**, can be reached on (571) 272-7899. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

J.L

June 7, 2007

John J Lee

  
EDWARD F. URBAN  
SUPERVISORY PATENT EXAMINER  
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